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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,625	02/28/2002	Matthew K. Sullivan	5125	3695

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EXAMINER

ISSING, GREGORY C

ART UNIT PAPER NUMBER

3662

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/084,625

Applicant(s)

SULLIVAN, MATTHEW K.

Examiner

Gregory C. Issing

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Woods, Jr. et al.

3. Wood, Jr. et al disclose a time and attendance monitor, as shown in Figure 1, including a power supply 30, a GPS receiver 22, a controller having a memory for storing time and location data, and a mobile transceiver 28 which performs two-way radio communication using any conventional radio signal modulation scheme and communications protocol. In addition to storing itinerary data, the memory stores identification code for uniquely identifying the mobile device.

Art Unit: 3662

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Dabbiere.

5. Dabbiere discloses the claimed method and apparatus for monitoring the time and location of an employee comprising as shown in Figure 1 a PDA 18, a GPS receiver 16 and a transmitter 20. The PDA inherently incorporates a battery power supply. The transmitter reports the position, identification, and time data to a host computer 14 at specific time intervals.

6. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Elliot.

7. Elliot discloses a portable, battery-powered device 12 having a GPS receiver for determining location, an internal clock for time stamping, and a cellular communication device for communication with a cellular transmission system station 16. The transmitter communicates the device's identification code and time-stamped, GPS positions to the station 16 which monitors the location history. The device may be remotely activated.

8. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamrick et al.

9. Hamrick et al disclose the claimed method and apparatus for reporting employee movement, see Figure 1, including a power supply 114, a cellular module having a cellular telephone 150, a satellite modem having a GPS receiver and a processor 102.

10. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Westervelt et al.

11. Wertervelt et al disclose an integrated communication and geographic positioning system including a mobile device having a cellular phone and a GPS receiver wherein positional information is transmitted to a remote site via cellular communication network. Applications

Art Unit: 3662

include wireless electronic time tracking, job and activity cost monitoring and employee positioning.

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamrick et al in view of Perler et al.

Hamrick et al teach the subject matter substantially as claimed as previously set forth. Furthermore, Hamrick et al teach that when a base station such as an Alert Call Center calls the mobile device, the mobile device is required to provide user verification via a password. If the password is not given or is incorrect, an alert/alarm condition is provided. Hamrick et al teach user verification via a password but not via a fingerprint reader. Perler et al teach a disadvantage of the use of passwords in an automated system for tracking employee time and attendance and suggest the use of biometrics as a form of automated personal recognition wherein the biometrics includes the use of fingerprint recognition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hamrick et al by substituting a fingerprint reader instead of a password to provide proper user verification in view of the teachings of Perler et al.

Art Unit: 3662

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Depp et al and Roy et al each disclose the conventionality of the use of biometric identification such as fingerprint sensors to monitor time and attendance of employees.

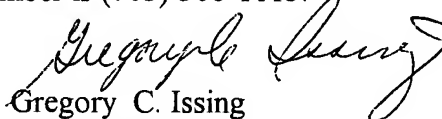
15. Note regarding Inventorship: Figure 1, the sole drawing lists multiple "inventors" in as much as the description of the Figure lists "by Matthew K. Sullivan, Paul Angelino, Frank Parsons," whereas the instant invention only lists one of them, "Matthew K. Sullivan."

16. PGPub US 2002/0175211 A1 is directed to a time and attendance system with verification of employee identity and location, filed 2/14/02 and based on a provisional application filed 3/19/2001.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (703)-306-4156. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (703)-306-4171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
Gregory C. Issing  
Primary Examiner  
Art Unit 3662

gci